

## **California Fair Political Practices Commission**

### **Memorandum**

**To:** Chairman Getman and Commissioners Downey, Knox and Swanson

**From:** Jon Matthews, publications editor

**Re:** Publications policy and 2003 publications calendar

**Date:** December 1, 2002

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### **Introduction**

The Commission currently does not have an agency-wide policy coordinating the production, revision and distribution of its publications. Nor does the Commission currently have a formal, annual schedule of publications. Recent and continuing budget constraints are severely limiting the funds available for physically printing and mailing educational and outreach materials. New technologies are permitting the increased use of the web and e-mail for lower-cost electronic distribution of publications.

At the chairman's request, a publications working group, consisting of the publications editor and other executive staff members, met to discuss development of a formal publications policy and calendar. Based on those discussions and other input, as well as the pressing need for innovative solutions to the budget situation, the publications editor proposes that the Commission review and adopt the publications policy and 2003 calendar detailed in this memorandum.

### **Background**

Despite limited resources, Commission staff members have produced a broad range of printed, multi-media and web-based materials intended to educate and inform Californians about the complex requirements of the Political Reform Act. Many of these materials are distributed to persons with responsibilities under the Act, with the audience including many thousands of public officials, candidates, campaign treasurers, filing officials, business entities and lobbyists. These publications and materials are widely viewed as an important element of the Commission's work to administer and

enforce the Act. Those who receive concise, easily understandable information about the requirements of the Act will almost certainly be less likely to violate the law and face a future enforcement action.

The educational and outreach materials produced by Commission staff members include:

- manuals
- forms and accompanying instructions
- fact sheets
- booklets, brochures and fliers
- annual reports
- newsletters
- PowerPoint presentations
- supplemental seminar materials
- filing schedules
- the Political Reform Act

Traditionally, these materials have been distributed in many different ways. Printed versions of materials have been distributed in conjunction with Commission educational seminars and outreach visits. Many printed materials have been distributed to visitors to the agency or mailed in response to direct requests, requests for informal advice, or subscription. The Commission's redesigned web site, which includes a dedicated publications section, offers millions of Californians virtually instant access to many of these materials. The web site also offers readers the ability to download or print documents for later reference. Interactive versions of key FPPC forms are available on the web site. E-mail attachments and CD-ROMs also are used for distribution of some Commission materials.

In total, many thousands of these publications are distributed annually and are typically free of charge to the recipient. An exception is a \$5 charge for a CD of the Political Reform Act, although the CD is distributed free to government agencies. Funds collected for the CD revert to the state's general fund.

Two Commission regulations establish a formal process for the approval and revision of "forms" and "manuals." The regulations *do not* specifically reference fact sheets, newsletters or other types of publications. The regulations state:

#### **18327. Voting Requirements for Formal Action by the Commission**

Except as otherwise provided by regulation, the concurring votes of at least three Commissioners shall be required to authorize any formal action by the Commission.

(a) Formal action includes, but is not limited to: the adoption of opinions, regulations or resolutions; the granting of petitions for rehearing; *the approval of*

*manuals or forms* [emphasis added]; and the issuance of any decision, order or declaration pursuant to Government Code Section 83116.

(b) Formal action does not include decisions: to approve conflict of interest codes; to hear testimony; to convene, adjourn or recess a meeting; or to conduct discussions.

### **18313. Forms and Manuals**

(a) The Commission shall maintain a list of persons interested in its forms and manuals.

(b) No later than 30 days prior to considering a new form or manual, or a revision or supplement to an existing form or manual, the Commission shall mail changes to everyone on its interested persons list. The changes shall be clearly noted.

(c) The form, manual, revision or supplement shall appear on the next regular meeting agenda of the Commission for adoption.

(d) At that meeting, the Commission may, if three commissioners agree:

(1) Adopt the form, manual, revision or supplement with or without discussion.

(2) Make changes to the form, manual, revision or supplement and adopt it as modified.

(3) Reject the form, manual, revision or supplement.

(4) Schedule an interested persons meeting.

The **Political Reform Act, section 83113**, also references the preparation of “manuals” and “instructions.” This section mandates the annual, updated publication of the Act:

The Commission shall, in addition to its other duties, do all of the following:

(b) Prepare and publish manuals and instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with and enforcement of this title, and explaining the duties of persons and committees under this title.

(e) Annually publish a booklet not later than March 1 that sets forth the provisions of this title and includes other information the Commission deems pertinent to the interpretation and enforcement of this title. The Commission shall provide a reasonable number of copies of the booklet at no charge for the use of governmental agencies and subdivisions thereof that request copies of the booklet. The Commission may charge a fee, not to exceed the prorated cost of producing the booklet, for providing copies of the booklet to other persons and organizations.

### **Current publications procedures**

Currently, agency publications are produced and revised through a variety of different procedures. Some of these procedures are at least partially controlled by

the regulations and law cited above while others are much less formal. The Technical Assistance Division, Legal Division, publications editor, Enforcement Division, executive staff, chairman and commissioners have varying input and roles in the creation, writing, editing, approval or distribution of various publications and materials. The Administration Division has duplicated and mailed many printed materials.

As one example, here is the current, informal procedure for publication and review of the *FPPC Bulletin* newsletter:

- 1) Articles are written by staff members in the various divisions or by the publications editor.
- 2) Draft articles are reviewed by one or more supervisors in the originating division or unit, and, in some cases, the Legal Division.
- 3) Draft articles are submitted to the publications editor, who does further review and editing and combines the articles into the first draft of the newsletter.
- 4) The edited first draft is submitted to the Commission chairman for her review and comments.
- 5) Upon approval of the chairman, the draft is circulated to all executive staff members and other key staff members for their review and comments.
- 6) In certain cases, the executive staff members may ask other supervisors or staff members in their respective divisions to assist in the review.
- 7) Upon approval of executive staff, a final draft is resubmitted to the chairman for a final review.
- 8) The newsletter is distributed in-house, posted on the agency web site, distributed by e-mail and printed for mail distribution.

Note that this process does not involve formal pre-approval by either the full Commission or members of the regulated community. While the *Bulletin* is generally produced quarterly, the review process does not follow a fixed timeline. Timing varies based on the workload of the divisions and supervisors involved; the time commitment required for each step of the process, late-breaking news developments and article assignments, and other factors.

Certain publications, such as the Act and revisions of form 700 and its extensive instructions, generally must be produced on fixed schedules. But there generally is no master, agency-wide schedule for publications.

Efforts are made to revise fact sheets and other educational publications when necessary. Many supervisors and staff members are careful not to release outdated information. However, there appears to be no formal policy for periodic review and updating of the many existing fact sheets, regardless of whether those fact sheets are actively being distributed or are posted on the web. There are some fact sheets, found either in printed form or somewhere on the in-house computer

drives, that are no longer distributed because revisions are needed. In some cases, the regulations cited by the fact sheet have been changed.

On the other hand, some materials receive active, constant updating. Examples include certain fact sheets and booklets, campaign seminar multi-media presentations and associated materials, Legal Division conflict-of-interest presentations and the *Bulletin*. There is no informal process for review of such materials by other divisions, executive staff or the chairman/commissioners, and in practice, many such materials receive no such review or approval outside their division, even though they may be intended for wide distribution to the public.

Many agency fact sheets and other publications do have some type of identification coding, or at least an indication of when the fact sheet was produced or when it was last revised. There are some publications, including some postings on the web, with no listed date of production or revision.

Many, but not all, Commission publications are posted on its web site, [www.fppc.ca.gov](http://www.fppc.ca.gov). There currently is one PowerPoint multi-media presentation posted on the web, with plans for additional presentations. While efforts have been made to place as much educational material as possible on the web site, there is no policy requirement that any particular title or type of publication or presentation be posted on the site. Some publications that are not posted on the web site have been distributed by staff members via the mail, fax or personal meetings. There is no agency-wide policy prohibiting distribution of fact sheets or other publications that are not available on the web.

Due to recent budget constraints and an effort to focus on the Internet, increased emphasis is being placed on web, e-mail and CD distribution of educational and outreach materials. The *Bulletin* has been redesigned as a web-based publication and, beginning with the December 2002 issue, no longer will be mailed. With limited exceptions for in-house distribution, seminars and those without computer access, distribution of the *Bulletin* will be limited to the FPPC's web site and e-mail subscription. Mail subscribers were given a prominent, detailed notice of the change in the September 2002 issue and thus far over 400 subscribers, representing all areas of the regulated community, have requested e-mail delivery. Reader feedback to the web- and e-mail-based *Bulletin* plan generally has been positive.

### **Proposed publications policy**

The goal of the Commission publications policy is to enhance the coordination and workflow of publications projects, while at the same time ensuring high levels of accuracy and the flexibility to respond to changes in the law or regulations in a timely manner.

In that light, the publications editor proposes that the Commission adopt the following publications policy:

### **1) Publications schedule**

Each fall, the publications working group, consisting of the publications editor, division heads and the executive director, will submit for the Commission's review and approval a proposed publications schedule for the following calendar year. The schedule will include:

- Titles and brief descriptions of the proposed publications projects
- Plans for significant revisions of existing publications as well as new publications
- The title and complete copy of any publication that is being withdrawn from distribution, and the reason for the withdrawal.

The publications schedule will be submitted to the Commission as part of the executive director's report or as a separate agenda "action item" memorandum. (See Appendix I for the proposed 2003 publications schedule.)

The annual publications schedule may be updated on a quarterly basis as required, with the changes submitted to the Commission for its review and approval.

When changes in the law or other significant circumstances require expedited action, a publication may be revised or updated before it appears on the quarterly publications schedule revision. In such cases, the revision and the reason for the change will be noted on the next quarterly schedule revision submitted to the Commission.

### **2) Publications to be included on the schedule**

All major Commission educational and outreach publications and forms will be included under the publications policy and the publications schedule. These publications include:

- manuals
- forms and accompanying instructions
- fact sheets
- booklets and brochures
- annual reports
- newsletters
- the Political Reform Act
- PowerPoint or other multi-media presentations intended for stand-alone presentation on the Commission web site or stand-alone distribution to outside organizations.

Publications will be included regardless of whether they are published in printed form or exclusively on the Commission's web site.

The publications policy and schedule will not include such documents as seminar PowerPoint presentations and other frequently updated materials that merely outline or enhance a verbal seminar presentation; filing schedules; and brief documents that excerpt but do not interpret the Political Reform Act or regulations.

Minor revisions or updating of any publication, including correction of typographical errors, correction of grammatical errors, updating of filing schedules and dates, or addition of an identification date or code, need not fall under the publications schedule or publications policy. But any change, no matter how minor, must be approved by the head or acting head of the originating division or unit.

### **3) Process for developing and approving new and revised major publications**

To ensure accuracy and inter-division coordination, all new and revised publications falling under the publications policy will undergo, at a minimum, the following review procedure:

- Informal, inter-divisional cooperation is strongly encouraged in the writing of first drafts.
- First draft is reviewed and approved by the head of the originating division or unit.
- First draft is circulated to all division heads and publications editor for review, comments and editing. Signature or initials on a standardized routing slip will indicate approval. In the event of a position vacancy or extended absence, an acting division head and/or acting publications editor may approve the draft.
- Final draft is submitted to the executive director for his or her approval and, if deemed appropriate by the executive director, referral to the chairman. The executive director and chairman will review all publications intended for wide distribution to the public. Publications requiring formal notice and Commission approval will be so noticed and approved.
- Final publication is posted on the Commission web site. The publication is either prominently noticed or published in its entirety within the *Bulletin*. The initial publication will include notice to the public of the new document and an invitation for public comment.<sup>1</sup>
- Significant revisions to a publication based on public comment will be approved by all division heads, the publications editor, the executive director and, where appropriate, the chairman.

### **4) Distribution of publications**

- All new and revised publications will be published on the Commission's web site, including publication or reference within the *Bulletin*.

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<sup>1</sup> Staff plans to propose amending regulation 18313 (b) to specifically authorize e-mail and web-based notification of interested persons.

- The publications editor will coordinate the content and organization of the web site.
- Commission staff will continue to develop a "list server" system to allow interested person to subscribe to the *Bulletin* and other Commission materials via e-mail.
- Distribution of printed copies of publications generally will be limited to circumstances in which computer access is not available. This may include seminar and meeting audiences and mail delivery to those without access to a computer.

#### **5) Standardized review and revision of existing publications**

Each existing publication falling under the publications policy will be reviewed on a timely basis for continued accuracy and any need for revision. This review will be conducted at an interval of no more than two years from the date of the last revision or initial publication. For publications that have not been revised within two years of the date of adoption of this publications policy, the two-year period will begin on the date the policy is adopted. The review will be coordinated by the publications editor and all revisions will be conducted under the procedure outlined in Section 3 of this policy.

#### **6) Document identification and publications list**

All publications produced or revised under this policy will carry a prominent, unique identification coding in addition to the title. This coding will include the date of last revision. This coding system will allow staff to ensure that they are distributing an up-to-date version of a publication (i.e. FPPC Publication 2000-04 (Revised 07-02)). The publications editor will coordinate a project to attach the coding to all existing publications. The publications editor will establish a list of publications falling under the publications policy and post the list on the Commission web site. (See Appendix II for a list of publications currently posted or referenced on the Commission web site). No publication may be distributed to any member of the public unless it appears on the publications list.



## Appendix I

### Proposed publications schedule for calendar year 2003<sup>2</sup>

**Title:** *Campaign Disclosure Manual A – For Candidates and Their Controlled Committees*

**Nature of project:** Major revision of lengthy publication

**Scheduled date of completion:** July 2003

**Project synopsis:** Major revision of 200-page plus manual to reorganize and incorporate changes in the law since 1995, including Proposition 34 and SB 34. Publication will be on web only, in downloadable/printable format

**Title:** *Form 700*

**Nature of Project:** Annual revision of Form 700

**Scheduled Date of Completion:** December 2003

**Project synopsis:** Annual revision of Form 700 and its extensive instructions

**Title:** *The Political Reform Act 2003*

**Nature of Project:** Publication of Political Reform Act

**Scheduled Date of Completion:** March 2003

**Project synopsis:** Statutorily mandated, annual publication of updated Political Reform Act. Includes cross-reference to enforcement cases

**Title:** *FPPC Bulletin*

**Nature of Project:** Publication of Commission's regular newsletter

**Scheduled Date of Completion:** Quarterly in 2003

**Project synopsis:** Production, editing and publishing of web- and e-mail based newsletter describing Commission activities and describing programs and activities of Commission<sup>3</sup>

**Title:** *2003 Addendum to Campaign Disclosure Manuals B-E*

**Nature of project:** Update of 1995 campaign manuals and 2002 addendum.

**Scheduled date of completion:** Ready for Commission approval in March 2003

**Project synopsis:** Provides interim update to campaign manuals pending completion of Campaign Disclosure Manual A and future updates of other manuals

**Title:** *Information Manual on Lobbying Disclosure*

**Nature of project:** Major revision of lengthy publication

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<sup>2</sup> Presented in proposed, general priority order. Budget constraints in 2003 may require schedule revisions to be submitted to the Commission per section 1 of the proposed publications policy.

<sup>3</sup> To conserve limited staff and budget resources, the publications editor proposes that the Commission's annual report be condensed and presented as an article in the spring issue of the *Bulletin*.

**Scheduled date of completion:** December 2003

**Project synopsis:** Major revision of manual to reorganize and incorporate changes in the law since 1998

**Title:** Pamphlet: *Probable Cause Proceedings at the FPPC*

**Nature of Project:** New publication

**Scheduled date of completion:** July 2003

**Project synopsis:** New, web-based pamphlet intended to explain the general nature of probable cause proceedings. Target audience is those entering into such proceedings.

**Title:** Fact sheets: *Limitations and Other Restrictions on Gifts, Honoraria, Travel and Loans for:*

- *Elected State Officers and Candidates for Elective State Office*
- *Members of State Boards and Commissions and State Employees*
- *Local Elected Officers, Candidates for Local Elective Offices, Judicial Candidates, Officials and Employees of Local Government Agencies*

**Nature of project:** Updating and reformatting of existing fact sheets

**Scheduled date of completion:** March 2003

**Project synopsis:** Review and revision of existing fact sheets to meet concerns of all divisions and ensure that language accurately reflects the current law and regulations

**Title:** *Virtual seminar*

**Nature of project:** Web-based PowerPoint presentation.

**Scheduled Date of Completion:** August 2003

**Project synopsis:** Web-based PowerPoint presentation outlining basic disclosure requirements for candidates and campaign committees

**Title:** *Lobbying disclosure fact sheet*

**Nature of project:** Update of lobbying disclosure laws

**Scheduled date of completion:** July 2003

**Project synopsis:** Provide update of lobbying disclosure requirements pending completion of lobbying manual

**Title:** Fact sheet: *When Should Consultants Be Included in a Conflict-of-Interest Code?*

**Nature of project:** Revision of fact sheet

**Scheduled date of completion:** November 2003

**Project synopsis:** Review and revision of existing fact sheet to meet concerns of all divisions and ensure that language accurately reflects the law and regulations

## Appendix II

### Proposed FPPC publications list

#### Political Reform Act

The 2002 version of the Political Reform Act

#### The FPPC *Bulletin*

- September 2002, Volume 28, No. 3
- June 2002, Volume 28, No. 2
- February 2002, Volume 28, No. 1
- November 2001, Volume 27, No. 4
- August 2001, Volume 27, No. 3
- May 2001, Volume 27, No. 2
- February 2001, Volume 27, No. 1
- October 2000, Volume 26, No. 4
- August 2000, Volume 26, No. 3
- April 2000, Volume 26, No. 2
- February 2000 Volume 26, No. 1
- October 1999 Volume 25, No. 3
- July 1999 Volume 25, No. 2
- April 1999 Volume 25, No. 1
- December 1998 Volume 24, No. 5
- October 1998 Volume 24, Number 4
- August 1998 Volume 24, Number 3
- May 1998 Volume 24, Number 2
- February 1998 Volume 24, Number 1
- All prior issues of the **Bulletin**, Volumes 1-23, 1975-1997 (not available on web site)

#### Manuals

- *Information Manual on Lobbying Disclosure* (1998)
- *2002 Addendum to FPPC Campaign Disclosure Information Manuals A - E*
- *Manual A - For Candidates and Their Controlled Committees*<sup>4</sup>
- *Manual B - For Non-Controlled Committees Primarily Formed to Support or Oppose a specific Candidate or Group of Candidates*

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<sup>4</sup> Campaign disclosure information manuals A-F are referenced on the web site but are available only in printed form. It is proposed that the next revision of each of these manuals be posted on the web in a format that permits downloading and printing.

- *Manual C - For General Purpose Committees (PACs); Manual D - For Ballot Measure Committees*
- *Manual E - For Major Donor Committees and Independent Expenditure Committees*
- *Manual F - For Slate Mailer Organizations.*

## **Forms**

### Campaign Disclosure:

- Form 400 (1992) -- Slate Mailer Organization Statement of Organization
- Form 401 (1992) -- Slate Mailer Organization Campaign Statement
- Form 402 (1992) -- Slate Mailer Organization Statement of Termination
- Form 405 (1994) -- Amendment to Campaign Disclosure Statement
- Form 410 (1/01) -- Statement of Organization (interactive)
- Form 425 (1/01) -- Semi-Annual Statement of No Activity for Non-Controlled Recipient Committees (interactive)
- Form 450 (6/01) -- Recipient Committee Campaign Statement-Short Form (interactive)
- Form 460 (2001) -- Consolidated Campaign Disclosure Form (interactive)
- Form 461 (8/99) -- Independent Expenditure Committee and Major Donor Committee Campaign Statement (interactive)
- Form 465 (1/01) -- Supplemental Independent Expenditure Report (Now interactive)
- Form 470 (6/01) -- Officeholder/Candidate Campaign Statement-Short Form and Form 470 Supplement (interactive)
- Form 495 (1/01) -- Supplemental Pre-Election Campaign Statement (interactive)
- Form 496 (6/01) -- Late Independent Expenditure Report (interactive)
- Form 497 (6/01) -- Late Contribution Report (interactive)
- Form 498 (8/99) -- Late Payment Report (Slate Mailer Organizations)
- Form 501 (6/01) -- Candidate Intention Statement (interactive)
- Form 511 (1/02) -- Paid Spokesperson Report
- Form 900 (1/01) -- Public Employee's Retirement Board -Candidate Campaign Statement

### Lobbyists and lobbyist employers:

- Form 601 (7/98) -- Lobbying Firm Registration Statement
- Form 602 (7/98) -- Lobbying Firm Activity Authorization
- Form 603 (7/98) -- Lobbyist Employer/Lobbying Coalition Registration Statement
- Form 604 (7/98) -- Lobbyist Certification Statement
- Form 605 (7/98) -- Amendment to Registration
- Form 606 (1997/98) -- Notice of Termination
- Form 607 (1997/98) -- Notice of Withdrawal
- Form 615 (1990) -- Lobbyist Report
- Form 625 (1990) -- Report of Lobbying Firm

- Form 630 (1990) -- Payments Made to Lobbying Coalitions
- Form 635 (1993) -- Report of Lobbyist Employer/Lobbying Coalition
- Form 635-C (1990) -- Payments Received by Lobbying Coalitions
- Form 640 (1993) -- Governmental Agencies Reporting
- Form 645 (1993) -- Report of \$5,000 Filer
- Form 690 (1990) -- Amendment to Lobbying Disclosure Report

Form 700: Statement of Economic Interests:

- Form 700 (2001/02) -- Interactive version of the Statement of Economic Interests
- Form 700 (2001/02) Amendment schedules -- interactive version
- Form 700 (2000/01) -- Interactive version of the Statement of Economic Interests
- Form 700 (2000/01) Amendment Schedules-- non-interactive version
- Form 700 (1999/00) -- Interactive version of the Statement of Economic Interests

## **Fact Sheets**

Campaign disclosure:

- *Candidates: Important Things to Remember*
- *Facts on Mass Mailings*
- *Using Public Funds for Ballot Measure Elections*
- *Recall Elections*
- *Proposition 34 Reporting Information for State Candidates*
  - *Vol. 1*
  - *Vol. 2*
- *What's New with "Accrued"-- New Rules on Reporting Accrued Expenses on Schedule F*
- *Committee Treasurers*
- *Notification to Potential Major Donors*
- *Committee Termination Requirements for State Candidates*
- *E-530: Issue Advocacy: Communications Identifying Candidates*

Conflicts of Interest / Financial Disclosure (Statement of Economic Interests):

- *Can I Vote? Conflicts of Interest Overview*
- *Campaign Contributions May Cause Conflicts for Appointees and Commissioners*
- *Holding Two Positions*
- *Adopting a Conflict-of-Interest Code*

Limitations and Other Restrictions on Gifts, Honoraria, Travel and Loans for:

- *Elected State Officers and Candidates for Elective State Office*
- *Members of State Boards and Commissions and State Employees*
- *Local Elected Officers, Candidates for Local Elective Offices, Judicial Candidates, Officials and Employees of Local Government Agencies*
- *Travel Guide for California Officials and Candidates*

Post-employment Restrictions:

- *Leaving Your State Job? Post-Employment Restrictions May Affect You*

Enforcement:

- *How To Report A Violation of the Political Reform Act*
- *Overview of the Enforcement Process*

### **Booklets and Brochures**

- *What Happens After I File a Complaint With the FPPC?*
- *Can I Vote? Conflicts of Interest Overview*
- *Your Duty to File: A Basic Overview of State Economic Disclosure Law*
- *How Do I Get Advice from the FPPC?*
- *A Reporter's Guide to the FPPC*
- *About the FPPC*
- *Filing Officer Outreach Programs*

## **Annual reports**

- *Fair Political Practices Commission Resource Directory and 2000 Annual Report*
- *Fair Political Practices Commission 1999 Annual Report*
- *Fair Political Practices Commission 2001 Annual Report*
- Annual or multi-year reports for 1975-1984, 1987-1990, 1992-1993, and 1995 (not available on web).

## **Multimedia tools**

- Ethics Orientation for State Officials<sup>5</sup>
- PowerPoint presentation on conflicts of interest.

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<sup>5</sup> This is an interactive training course developed to provide state officials with information on California's conflict-of-interest laws. It is maintained on the state Attorney General's web site, and can be accessed via a link from the FPPC web site.